

**FILED**

FEB 11 2010

SECRETARY, BOARD OF  
OIL, GAS & MININGBEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
IN AND FOR THE STATE OF UTAHBURNELL RICH aka A. BURNELL RICH  
and SHERRIL RICH,  
PETITIONERS,

Vs.

MOUNTAIN OIL AND GAS, INC. and  
HOMELAND GAS AND OIL, LTD.,  
RESPONDENTS.

: REQUEST FOR AGENCY ACTION

: DOCKET NO. 2010-015: CAUSE NO. 131-127A

Comes now the Petitioners, Burnell Rich aka A. Burnell Rich and Sherrill Rich, and in support of their Petition, state the following:

- 1) Petitioners are residents of Uintah County, State of Utah. As evidenced by Exhibit A (Oil and Gas Lease), Petitioners are owners of oil and gas rights in Lots 6, 7, 8, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 2, Township 2 South, Range 1 East, U.S.M., Uintah County, Utah.
- 2) Respondent Mountain Oil and Gas, Inc., P.O. Box 1574, Roosevelt, Utah 84066 and Respondent, Homeland Gas and Oil, Ltd., P.O. Box 1776, Roosevelt, Utah 84066 operate the well and receive proceeds from the sale of oil produced from the well.
- 3) By order, in Cause No. 131-24 dated January 16, 1974, the Board of Oil, Gas and Mining (Board) established a drilling unit covering said lands consisting of the entire governmental section.
- 4) Located in said Section 2 is a well known as the 1-2B1E, API# 43-047-30931. Said well is, and has been previously, producing oil and gas from the Lower Green River and Wasatch Formations. It is the only well located in the Section.
- 5) The DOGM currently recognizes, and has done so since October 2006, Respondent, Homeland Gas and Oil, LTD. as the Operator of the 1-2B1E well. Revenues from the

sale of oil from the 1-2B1E well are currently received by Respondent, Mountain Oil and Gas, Inc and/or Homeland Gas and Oil, LTD.

- 6) Petitioners are entitled to a share of the proceeds from the sale of oil produced by the 1-2B1E well as its lands are contained within that drilling unit established by the Board. Said Section contains 650.9 acres. Petitioners own an undivided 1/9 of 47/102.56 of said tract which contains 62.56 acres m/l.
- 7) To the best of Petitioners' memory Respondent's have never disbursed Petitioners' share of the proceeds from oil sales to Petitioners prior to near the end of December, 2009. On 12/31/09 Petitioners received a check dated 10/25/2009 for what appears to be royalties due for a portion of 2009. Petitioners have requested that Respondents immediately pay the sums owing and have requested the date such sums will be paid. Notwithstanding such requests Respondents have failed to disburse all the proceeds from the sale of oil to which Petitioners are entitled and to reply as to what date such proceeds shall be disbursed.
- 8) The non-payment of proceeds by Respondents occurred from April, 2006 to the present, but may not be limited to this time frame as Petitioner cannot find in the public record a document wherein Mountain Oil, Inc. assigned their interest to Homeland Gas and Oil, LTD but rather can only find the documentation wherein operatorship change was requested to the Division of Oil, Gas and Mining (DOGM).
- 9) The failure to disburse proceeds to those owners is, at the very least, a breach of its fiduciary obligations and contractual obligation as operator (approved by DOGM and not as defined by Utah Code Ann. § 40-6-2 (16) (1953, as amended)) of the well and as recipient of the proceeds from the sale of oil.
- 10) Petitioners believes that Respondents failed to escrow such unpaid proceeds as is required by Utah Code Ann. § 40-6-9-3(b)(i) (1953, as amended).

WHEREFORE, Petitioners respectfully request as follows:

- A) Pursuant to Utah Code Ann. § 40-6-9, (1953, as amended), the Board set this matter for an Investigation and Negotiation Conference by the Division in accordance with the rules of the Board of Oil, Gas and Mining ("Board").

- B) If this matter cannot be resolved by the Investigation and Negotiation Conference, the Board set the matter for hearing at a regularly scheduled hearing of the Board of Oil, Gas and Mining.
- C) Following such hearing, the Board enter an Order that:
- 1) Non-payment of proceeds on the above referenced well is intentional with full knowledge and without reasonable justification; and
  - 2) A complete accounting be made of the above referenced well, the cost of which shall not be charged to the interest owner in the above-referenced well; and
  - 3) Pursuant to the accounting, all proceeds to which the Petitioners are entitled be disbursed within 30 days, and if ordered by the Board, interest at the rate of one and one-half percent (1 ½%) per month from date of delinquency; and a penalty of twenty-five percent (25%) of the delinquent proceeds due and owing the Petitioners; and
  - 4) Respondents be required to timely pay all future proceeds from the well in accordance with Utah Code Ann. § 40-6-9 (1953, as amended); and
  - 5) Respondents be required to, as applicable, escrow future proceeds from the well in accordance with Utah Code Ann. § 40-6-9 (1953, as amended).

Dated this 9th day of February, 2010.

Signed Burnell Rich  
Burnell Rich, Petitioner  
Address as below

Signed Sherril Rich  
Sherril Rich, Petitioner  
1381 S. 2350 W.  
Vernal, Utah 84078  
435-789-2811--Home

CERTIFICATE OF SERVICE

I, Burnell Rich and I, Sherril Rich, hereby certify that on the 2-9-10 day of February, 2010, we did cause to be mailed, postage prepaid, the foregoing REQUEST FOR AGENCY ACTION to the following parties:

Mountain Oil and Gas, Inc.  
P.O. Box 1574  
Roosevelt, Utah 84066

Homeland Gas and Oil, Ltd.  
P.O. Box 1776  
Roosevelt, Utah 84066

Signed: Burnell Rich  
Burnell Rich, Petitioner

Signed: Sherril Rich  
Sherril Rich, Petitioner

PRODUCERS 88-PAID UP  
Rev. 5-60, No. 2 — 8pt.

## OIL AND GAS LEASE

3rd day of May, 1996, by and between

AGREEMENT, Made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between  
A. Burnell Rich, Pearl Wardell, Bernice Pilling, Clarence Rich, Bonnie Crozier, Olive Parry,  
Deareld D. Rich, and Russell Rich \_\_\_\_\_, hereinafter called Lessor (whether one or more) and  
Whose post office address is \_\_\_\_\_, hereinafter called Lessee:  
Uinta Oil & Gas, Inc. whose post office address is PO Box 1618 Roosevelt, UT \_\_\_\_\_ DOLLARS

WITNESSETH, That the Lessor, for and in consideration of One and more \$\*\*\*\*\* DOLLARS cash in hand paid, the receipt of which is hereby acknowledged, and the covenants and agreements hereinafter contained, has granted, demised, leased and let, and by these presents does grant, demise, lease and let exclusively unto the said Lessee, the land hereinafter described, with the exclusive right for the purpose of mining, exploring by geophysical and other methods, and operating for and producing therefrom oil and all gas of whatsoever nature or kind, with rights of way and easements for laying pipe lines, and erection of structures thereon to produce, save and take care of said products, all that certain tract of land situated in the County of \_\_\_\_\_ State of \_\_\_\_\_ Utah.

Hintah  
described as follows, to-wit:

Township 2 South, Range 1 East, U.S.M.  
Section 2: Lots 6, 7, 8, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$

ENTRY 96007223  
BOOK 632 PAGE 266-267 \$22.00  
17-DEC-96 11:13  
RANDY SIMMONS  
RECORDER, UTAH COUNTY, UTAH  
SUN OIL INC  
P O BOX 1030 ROOSEVELT UT 84066  
REC BY: PAT ADPLANALP , DEPUTY

and containing 62.56 acres, more or less. one

and containing 62.56 acres, more or less. one

1. It is agreed that this lease shall remain in force for a term of ten years from this date and as long thereafter as oil or gas of whatsoever nature or kind is produced from and leased that this lease shall remain in force for a term of ten years from this date and as long thereafter as oil or gas of whatsoever nature or kind is produced from said leased premises or on acreage pooled therewith, or drilling operations are continued as hereinafter provided. If, at the expiration of the primary term of one year, oil or gas is not being produced on the leased premises or on acreage pooled therewith, Lessee is then engaged in drilling or re-working operations thereon, then this lease shall continue in force so long as operations are being continuously prosecuted on the leased premises or on acreage pooled therewith; and thereafter, then this lease shall be considered to be continuously producing until such time as ninety (90) days shall elapse between the completion or abandonment of one well and the beginning of operations for the drilling of another well. If after discovery of oil or gas on said land or on acreage pooled therewith, the production thereof ceases from any cause, whether or not by operation of law, this lease shall nevertheless continue in full force and effect until the expiration of the primary term, whereafter, if no operations are being conducted on said land or on acreage pooled therewith, this lease shall terminate. If after the primary term, this lease shall not terminate if Lessee commences additional drilling or re-working operations on said land or on acreage pooled therewith, then this lease shall continue in force so long as operations are being continuously prosecuted on said land or on acreage pooled therewith, and thereafter, then this lease shall be considered to be continuously producing until such time as ninety (90) days shall elapse between the completion or abandonment of one well and the beginning of operations for the drilling of another well. If after discovery of oil or gas on said land or on acreage pooled therewith, the production thereof ceases from any cause, whether or not by operation of law, this lease shall nevertheless continue in full force and effect until the expiration of the primary term, whereafter, if no operations are being conducted on said land or on acreage pooled therewith, this lease shall terminate.

IN WITNESS WHEREOF, the undersigned have caused this Lease to be signed and sealed and attested by me, the undersigned, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

LESSOR: \_\_\_\_\_

LESSEE: \_\_\_\_\_

2. This is a PAID-UP LEASE. In consideration of the down cash payment, Lessor agrees that Lessee shall not be obligated, except as otherwise provided herein, to commence or continue any operations during the primary term. Lessee may at any time or times during or after the primary term surrender this lease as to all or any portion of said land and as to any strata or stratum by delivering to Lessor or by filing for record a release or releases, and be relieved of all obligation thereafter accruing as to the acreage surrendered.

1st. To deliver to the credit of Lessor, free of cost, in the pipe line to which Lessee may connect wells on said land, the equal one-eighth (1/8) part of all oil and gas produced and saved from the leased premises.

3. In consideration of the premises the said Lessee covenants and agrees:  
1st. To deliver to the credit of Lessor, free of cost, in the pipe line to which Lessee may connect wells on said land, the equal one-eighth (1/8) part of all gas produced and saved from the leased premises.

2nd. To pay Lessor one-eighth (1/8) of the gross proceeds each year, payable quarterly, for the gas from each well, at the prevailing market rate for gas. If the prevailing market rate for gas is not ascertainable, the rate shall be the rate for gas in the nearest oil field.

4. Where gas from a well capable of producing gas is not sold or used, Lessee may pay or tender as royalty to the royalty owners One Dollar per year per net royalty acre retained hereunder, such payment or tender to be made on or before the anniversary date of this lease next ensuing after the expiration of 90 days from the date such well is shut in and thereafter on or before the anniversary date of this lease during the period such well is shut in. If such payment or tender is made, the shut-in royalty herein provided within the meaning of this lease.

5. If said Lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties (including any shut-in gas royalty) herein provided for shall be paid the Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee.

6. Lessee shall have the right to use, free of cost, gas, oil and water produced on said land for Lessee's operation thereof, and

6. Lessee shall have the right to use, free of cost, ~~any~~ any water from the well for the purpose of drilling and operating the well.

10. Lessee shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

11. The rights of Lessor and Lessee hereunder may be assigned in whole or part. No change in ownership of Lessor's interest (by assignment or otherwise) shall be binding on Lessee until Lessee has been furnished with notice, consisting of certified copies of all recorded instruments of and documents and other information necessary to enable Lessee to enforce the obligations hereunder, and then only with respect to payments thereafter made. No other kind of notice, whether actual or constructive, shall be binding on Lessee.

11. The rights of Lessor shall be binding on Lessee until Lessee has been furnished with notice, consisting of certified copies of all records and data necessary to establish a complete chain of record title from Lessor, and then only with respect to payments thereafter made. No other kind of notice, whether actual or constructive, shall be binding on Lessee. No present or future division of Lessor's ownership as to different portions or parcels of said land shall operate to enlarge the obligations or diminish the rights of Lessee, and all Lessee's operations may be conducted without regard to any such division. If all or any part of this lease is assigned, the leasehold owner shall be liable for any act or omission of any other leasehold owner.

12. Lessee, at its option, is hereby given the right and power at any time and from time to time as a recurring right, either before or after production, as to the entire or part of the land described herein and as to any one or more of the formations hereunder, to pool or unitize the leasehold estate and the mineral estate covered by this lease with other leasehold estates and interests in oil and gas, or separately for the production of either, when in Lessee's

12. Lessee, at its option, is hereby given the right and power at any time and also from time to time, to pool or unitize the leasehold estate and the mineral estate covered by this lease with other land, lease or leases in the immediate vicinity for the production of oil and gas, or separately for the production of either, when in Lessee's judgment it is necessary or desirable to do so, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases. Likewise, Lessee is hereby given the right and power at any time and also from time to time, to reformat or reformulate the leasehold estate and the mineral estate covered by this lease with other land, lease or leases in the immediate vicinity for the production of oil and gas, or separately for the production of either, when in Lessee's judgment it is necessary or desirable to do so, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases. The forming or reforming of pools or unitizations shall be subject to the approval of the appropriate governmental agencies having jurisdiction over the production of oil and gas.

by this lease with other land, lease or leases, in the immediate vicinity for the production of oil and gas, and the use, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases. Likewise, if it is necessary or advisable to do so, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases, the unit previously formed to include formations not producing oil or gas, may be reformed to exclude such non-producing formations. The forming or reforming of such unit, and the filing of record a declaration of such unitization or reformation, which declaration shall describe the unit, shall not constitute commencement of production of oil or gas, and production of oil or gas shall not be deemed to have been commenced. Production of oil or gas shall be deemed to have been commenced when production of oil or gas is first sold or otherwise disposed of for use other than for the unit.

Any unit may include land upon which a well has theretofore been completed or upon which operations for drilling have theretofore been commenced. Production from such well shall be included in production from the unit.

Any unit may include land upon which a well has theretofore been completed or upon which operations for drilling new interference wells shall be completed or upon which operations for drilling new or part of this lease shall be treated as if it were drilling or reworking operations or a well shut in for want of a market anywhere on a unit which includes all or a part of this lease. In lieu of the royalties elsewhere herein specified, including shut-in production, drilling or reworking operations or a well shut in for want of a market under this lease, in lieu of the royalties elsewhere herein specified, including shut-in production, drilling or reworking operations or a well shut in for want of a market under this lease, such allocation shall be made only on the portion of such production allocated to this lease; such allocation shall be made only on the portion of such production allocated to this lease; such allocation shall be made only on the portion of such production allocated to this lease.

[illegible]

gas royalties. Lessor shall receive on production from the unit so pooled royalties only that shall be proportion of the unit production that the total number of surface acres covered by this lease and included in the unit bears to the total number of surface acres in such unit. In addition to the foregoing, Lessee shall have the right to unitize, pool, or combine all or any part of the above described lands as to one or more minerals in common with other lands in the same general area by entering into a cooperative or unit plan of development or operation approved by the appropriate governmental authority. In such event, the term "unit" shall mean the unit so formed.

acres in such unit. In addition to the foregoing, Lessee shall have the right to unitize, pool, or commingle production from all oil and gas formations underlying the acreage covered by this lease, whether or not the same are included in the approved cooperative or unit plan of development or operation approved by the appropriate governmental authority and, from time to time, with like approval, to modify, change or terminate any such plan or agreement and, in such event, the terms of this lease shall be deemed modified to conform to the terms, conditions, and provisions of such approved cooperative or unit plan of development or operation. If at any time it is determined that compliance with the drilling program required by this lease would result in economic waste, this lease shall nevertheless remain in full force and effect until the expiration of its term.

[illegible][illegible][illegible]

therefrom is allocated to different portions of the land covered by said plan; and

other tract of land; and the royalty payments to be made hereunder to Lessor shall be based upon the production of oil and gas from the leased premises, and Lessor shall be entitled to the same upon request. Lessor shall not be bound to execute this lease or to consent to any cooperative or unit plan of development or operation adopted by Lessee and approved by any governmental agency by executing the same upon request of Lessee.

13. All express or implied covenants of this lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this lease shall not be terminated, in whole or in part, nor Lessee held liable in damages, for failure to comply therewith, if compliance is prevented by, or if such failure is due to, any act of God, war, terrorism, riot, strike, or other cause beyond the control of Lessee.

13. All express or implied warranties made by Lessor in connection with this lease, whether or not such warranties are made in writing, shall be deemed to have been made by Lessor to Lessee and shall not be terminated, in whole or in part, nor Lessee held liable in damages, for failure to comply therewith, if compliance is prevented by or for reasons beyond Lessee's control. The foregoing shall not be construed to limit the effect of any limitation on the amount or type of damages, recovery or benefits payable by or for third parties under any workers' compensation acts, disability benefit acts or sickness benefit acts. The foregoing shall not be construed to limit the effect of any limitation on the amount or type of damages, recovery or benefits payable by or for third parties under any workers' compensation acts, disability benefit acts or sickness benefit acts.

14. Lessor hereby warrants and agrees to defend the title to the lands herein described, and agrees that the Lessee shall have no right at any time to the lands herein described, except as herein provided, and that the Lessee shall have no right to the lands herein described, except as herein provided, and that the Lessee shall have no right to the lands herein described, except as herein provided.

[illegible]

15. Should any one or more of the parties heretobefore named as Lessor fail to execute this lease, it shall nevertheless be binding upon all such parties who do execute it as Lessor. The word "Lessor," as used in this lease, shall mean any one or more or all of the parties who execute this lease as Lessor. All the provisions of this lease shall bind the heirs, successors and assigns of Lessor and Lessee.

IN WITNESS WHEREOF, this instrument is executed as of the date first above written.

16. Wherever the term one-eighth (1/8) appears in this lease, it shall by this refer

16. Wherever the term one-eighth (1/8) appears in this document, it shall be amended to read one-sixth (1/6).

*Bonnie Carrier*

be amended to read one-sixth of 1%  
A. Russell Kirk Bonnie Crozier  
 in Pl. 11 Pl. 11

*A. Trumbull*

1. James W. Smith  
2. James W. Smith

Flavine Koch  
L. J. Phelan

Bureau of Printing 2 Quasi Ass.

STATE OF UTAH  
COUNTY OF DUCHESNE ss.

Oklahoma, Kansas, New Mexico, Wyoming, Montana, Colorado, Utah,  
Nebraska, North Dakota, South Dakota  
ACKNOWLEDGMENT—INDIVIDUAL

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 11<sup>th</sup>  
day of December, 1996, personally appeared A. Burnell Rich, Pearl Wardell, Bernice Pillin  
Clarence Rich, Bonnie Crozier, Olive Parry, Deareld D. Rich, and Russell Rich  
and \_\_\_\_\_

\_\_\_\_\_ to me known to be the identical person \_\_\_\_\_, described in and who executed  
the within and foregoing instrument of writing and acknowledged to me that They duly executed the same as Their free  
and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.  
My Commission Expires Oct 16, 1999  
Notary Public  
STATE OF UTAH  
My Commission Expires  
Oct 16, 1999  
Notary Public

Address: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ ss.

Oklahoma, Kansas, New Mexico, Wyoming, Montana, Colorado, Utah,  
Nebraska, North Dakota, South Dakota  
ACKNOWLEDGMENT—INDIVIDUAL

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_, personally appeared \_\_\_\_\_  
and \_\_\_\_\_

\_\_\_\_\_ to me known to be the identical person \_\_\_\_\_, described in and who executed  
the within and foregoing instrument of writing and acknowledged to me that \_\_\_\_\_ duly executed the same as \_\_\_\_\_ free  
and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.  
My Commission Expires \_\_\_\_\_

Notary Public.

Address: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ ss.

ACKNOWLEDGMENT (For use by Corporation)

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_, before me personally  
appeared \_\_\_\_\_ to me personally known, who, being by  
me duly sworn, did say that he is the \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_ and that the seal affixed to said instrument is the corporate seal of  
said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said  
\_\_\_\_\_ acknowledged said instrument to be free act and deed of said corporation.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.

Notary Public.

Address: \_\_\_\_\_

(SEAL)

My Commission expires \_\_\_\_\_

No. _____	FROM	TO	Dated _____ 19____	No. Acres _____	County _____	Term _____	This instrument was filed for record on the _____ day of _____ 19____, at _____ o'clock _____ M., and duly recorded in Volume _____ Page _____ of the records of this office.	County Clerk.	By _____ Deputy.	When recorded return to _____
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